

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

CITY OF SPOKANE VALLEY, and
STATE OF WASHINGTON, ex rel., CHRIS
ANDERLIK,

Petitioners,

vs.

BALLARD BATES and DUANE
SIMMONS,

Respondents.¹

IN RE THE APPLICATION FOR A
CITIZEN COMPLAINT,

CHRIS ANDERLIK,

Petitioner.²

NO. 81295-1

STATEMENT OF ADDITIONAL
AUTHORITIES

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STATE OF WASHINGTON
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COMES NOW, the State of Washington, by and through PAMELA B. LOGINSKY, Special Deputy Prosecuting Attorney in and for Spokane County, and respectfully requests that the Court consider the following additional authorities pursuant to RAP 10.8:

Colbert v. Moomba Sports, 163 Wn.2d 43, 176 P.3d 497 (2008) (a person may only bring a bystander negligent infliction of emotional distress claim if the person was present at the scene of the accident; there must be actual sensory experience of the pain and suffering of the victim--personal experience of the horror).

¹This caption is the caption that appears on the order granting review.

²This caption is the name that the State believes should appear on this case. The State has a pending RAP 3.4 motion to change the title of the case.

1 *Branson v. Port of Seattle*, 152 Wn.2d 862, 875, 101 P.3d 67 (2004) ("Although the Port
2 does not claim that Branson lacks standing, Suppl. Br. of Resp't at 4, we may raise the issue sua
3 sponte.")

4 *Int'l Ass'n of Firefighters, Local 1789 v. Spokane Airports*, 146 Wn.2d 207, 213, 45 P.3d
5 186 (2002) ("The Court of Appeals, however, correctly observed that standing is a jurisdictional
6 issue that can be raised for the first time on appeal.").

7 *High Tide Seafoods v. State*, 106 Wn.2d 695, 702, 725 P.2d 411 (1986) ("If a plaintiff lacks
8 standing to bring a suit, courts lack jurisdiction to consider it.").

9 *Gross v. City of Lynnwood*, 90 Wn.2d 395, 400, 583 P.2d 1197 (1978) ("A party may raise
10 failure to establish facts upon which relief can be granted for the first time in the appellate court.
11 RAP 2.5(a)(2). Respondent is thus not precluded from raising appellant's failure to establish he is
12 within the protected class.").

13 *Mitchell v. Doe*, 41 Wn. App. 846, 848, 706 P.2d 1100 (1985) ("Facts establishing standing
14 are as essential to a successful claim for relief as is the jurisdiction of a court to grant it. Thus, we
15 hold that the insufficiency of a factual basis to support standing may also be raised for the first time
16 on appeal in accordance with RAP 2.5(a)(2).").

17 *Int'l Ass'n of Firefighters, Local 1789 v. Spokane Airports*, 103 Wn. App. 764, 768, 14 P.3d
18 193 (2000), *aff'd*, 146 Wn.2d 207, 213, 45 P.3d 186 (2002) ("Generally, issues that are not argued
19 before the trial court may not be reviewed on appeal. RAP 2.5(a). Because standing is a
20 jurisdictional issue, however, it may be raised for the first time in appellate court. RAP 2.5(a)").

21 *Mitchell v. Doe*, 41 Wn. App. 846, 706 P.2d 1100 (1985) ("Facts establishing standing are
22 as essential to a successful claim for relief as is the jurisdiction of a court to grant it. Thus, we hold
23 that the insufficiency of a factual basis to support standing may also be raised for the first time on
24 appeal in accordance with RAP 2.5(a)(2).").

25 *In re Groves*, 127 Wn.2d 221, 239, 897 P.2d 1252 (1995) (there is no constitutional right to
26 appeal a civil case; the right to appeal, if it exists, is a right which is granted by the Legislature or
27 at the discretion of the court).
28

1 *Housing Authority v. Saylor*, 87 Wn.2d 732, 740-41, 557 P.2d 321 (1976) (there is no
2 constitutional right to appeal a civil case; the right to appeal, if it exists, is a right which is granted
3 by the Legislature or at the discretion of the court).

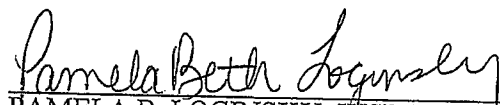
4 *Malted Mouse, Inc. v. Steinmetz*, 150 Wn.2d 518, 532-33, 79 P.3d 1154 (2003)
5 (constitutional writs of review are only available when a statutory writ or direct appeal is unavailable
6 and where the petitioning party can allege facts that, if verified, would establish that the lower
7 tribunal's decision was illegal or arbitrary and capricious).

8 Spokane Valley Municipal Code § 2.25.020 ("The city attorney, or a designated
9 representative, shall: . . . B. Represent the City of Spokane Valley in all actions brought by or against
10 the City of Spokane Valley itself")

11 Spokane Valley Municipal Code § 2.25.010 ("The city council hereby creates the office of
12 the city attorney. This office shall be filled by appointment by the city manager.")

13 Spokane Valley Municipal Code § 1.10.050 ("Any violation of a City ordinance may be
14 prosecuted by the city attorney or designee in the name of the City to include demands for fines and
15 forfeitures paid to the City or may be adjudicated by civil action, or both. ")

16 Respectfully submitted this 23rd day of October, 2008.

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19 PAMELA B. LOGINSKY, WSBA No. 18096
20 Special Deputy Prosecuting Attorney
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PROOF OF SERVICE


I, Pamela B. Loginsky, declare that I have personal knowledge of the matters set forth below and that I am competent to testify to the matters stated herein.

On the 23rd day of October, 2008, I e-filed a copy of the document to which this proof is attached with the Washington Supreme Court by sending this document to supreme@courts.wa.gov.

A copy of this document was served by e-mail on counsel for Chris Anderlik, Adam Karp, by sending this document to Mr. Karp at adam@animal-lawyer.com.

I declare under the penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

Signed this 23rd day of October, 2008, at Olympia, Washington.


Pamela B. Loginsky, WSBA 18096